

**211 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-M-18546-2023
DECIDED ON: 21.04.2023
.....PETITIONER**

JAGSIR SINGH ALIAS JASSA

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Ms. Kamlesh, Advocate for the petitioner.

Mr. Mohit Thakur, AAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

The instant petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in FIR No.06 dated 19.01.2023 under Sections 15, 29, 61, 85 of NDPS Act registered at Police Station Sadar Ahmedgarh, District Malerkotla.

Learned counsel for the petitioner contends that the quantity of alleged contraband recovered is 52 Kgs of poppy husk, which is marginal over and above the commercial quantity i.e. 50 Kgs and the petitioner was apprehended from his house, not from the truck which was allegedly parked in front of the house of petitioner. It is further asserted on behalf of the petitioner that he has been falsely implicated in the instant case and is not involved in any other case whatsoever except in FIR No.123/2018 dated 26.11.2018, under Punjab Excise Act, 1914. The petitioner was neither an owner of the offending truck nor was driving the offending truck from which contraband has been recovered.

Notice of motion.

On the asking of the Court, Mr. Mohit Kumar, AAG, Punjab accepts notice and has filed custody certificate dated 20.04.2023, which is taken on record. According to which, the petitioner has undergone 03 months of actual custody. He further contends that the petitioner has been arrested from the spot who was found sitting inside the truck.

Considering the fact that the petitioner was only sitting inside the truck but cannot be said to be in conscious possession of the contraband i.e. poppy husk of 52 Kgs which is marginal over and above of the commercial quantity and the petitioner was already behind the bars for last 03 months as on date, he is not habitual offender and is not involved in any other case of NDPS Act, the trial is likely to take some time wherein the investigation is still going on but nothing is to be recovered for which the custodial interrogation can be deemed to be justified, this Court is of the considered view that the petitioner deserves the concession of bail as he is behind bars for the last 03 months wherein proceedings are likely to take long time.

Hence the petitioner is directed to be released on regular bail on furnishing bail and surety bonds to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate concerned.

The present petition is, therefore, allowed.

(SANDEEP MOUDGIL)
JUDGE

21.04.2023

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No